IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3131 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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GOSWAMI B PANNALAL & 1 - Petitioners
Versus
BARODA MUNICIPAL SCHOOL BOARD & 3 - Respondents

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Appearance :
MR TUSHAR MEHTA for Petitioners.
MR PRANAV G DESAI for Respondents.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 15/02/2006

ORAL JUDGMENT

1.The petitioners, in all two, have filed this petition under Article 226 of the Constitution of India praying for the direction to the respondents to continue the petitioners as primary teachers and to operate and continue the same select list prepared after taking interviews in September, 1990 and to regularize the services of the petitioners by making them permanent and to restrain the respondents from preparing a new select list in pursuance of the advertisement dated 04.04.1991. The petitioners have also prayed for quashing and setting aside the action of the respondents in publishing an advertisement and inviting applications for the post of primary school teachers by way of advertisement dated 04.04.1991.

2.During the pendency of this petition, the petitioners have sought for the amendment in

the petition which was duly granted by this Court. As per this amendment, the petitioners have submitted that in pursuance of the advertisement dated 04.04.1991, the respondents have invited applications and inspite of the fact that the select list prepared earlier was still in operation and the matter was pending before this Court they have held the interview and published and notified the new select list. The petitioners also appeared in the interviews on 2.7.1991 and the respondents were satisfied with their performance. It is further stated that the petitioners have received the appointment letters. One of such letters given to the petitioner No. 1 was annexed with the amendment. The petitioners were appointed in the same school in which they have been in service since last many years except the artificial break of few months given for four or five times. The date of appointment as per the appointment letter was 09.09.1991. The

petitioners apprehended that as per the practice of the respondents, the petitioners would again be removed from their job during the period of vacation. Looking to the facts and circumstances of the case, the petitioners have requested this Court to restrain the respondents from terminating the petitioners during the pendency of the petition.

3.Initially, this Court has issued notice on 30.04.1991 and ad-interim relief was granted in terms of para 17 (C) of the petition whereby the respondents were restrained from terminating the petitioners as primary teachers from Sayaji Ganj Hindi Mishra Shala No. 42, Baroda. The petition was admitted on 14.06.1991 and ad-interim relief granted earlier was ordered to be continued till further order. On 28.11.1991, this Court has passed an order to maintain status-quo and the said order of status-quo was continued all

throughout.

4.When this matter is taken up for hearing, Mr. Pranav G. Desai, learned advocate appearing for the respondents has submitted that he has received an instruction from the respondents that the petitioner No. 1 i.e. Goswami Balvati Pannalal has expired during the pendency of this petition. So far as petitioner No. 2 i.e. Sadhna C. Gupta is concerned, she is still continued in the respondent school by virtue of the interim order passed by this Court in this petition. All throughout, the case of the respondents was that the petitioners were temporarily appointed on leave vacancies and hence, they cannot claim any right of permanency. This fact was disputed by the petitioners as their appointments were made pursuant to the advertisement issued and interviews held and they were selected by the respondents though these facts were denied by

the respondents.

5.In the above view of the matter, so far as petitioner No. 1 is concerned, since she has expired, no further relief is required to be granted in the present petition. However, the petitioner No. 2 is still continued in the respondent school. More than 14 years have passed. It is true that the petitioner No. 2 was appointed in the respondent school and was continued pursuant to the interim order passed by this Court. The fact, however, still remains that for the last more than 14 years, she is continued in the school. The Court, therefore, does not think it just and proper to disturb the present status of the petitioner No. 2 in the respondent school.

6.In the above view of the matter, so far as the petitioner No. 1 is concerned, the present petition stands abated and so far as petitioner

No. 2 is concerned, the same is allowed in terms of the interim relief granted by this Court and the present status of the petitioner No. 2 in the respondent school may not be disturbed by the respondents. Since the petitioners' learned advocate has no instruction from the petitioners, liberty is reserved for the legal heirs of the petitioner No. 1 to approach this Court in case of difficulty or if the need so arises in future.

7. Subject to the aforesaid direction and observation, this petition is accordingly disposed of. Rule is made absolute to the aforesaid extent without any order as to costs.

[K.A. PUJ, J.]

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